

Court of Appeals, State of Michigan

ORDER

People of the City of Saline v Salvatore Randazzo

Docket No. 277646

LC No. 06-000430-AV

David H. Sawyer
Presiding Judge

William B. Murphy

Joel P. Hoekstra
Judges

Pursuant to MCR 7.205(D)(2), in lieu of granting the delayed application for leave to appeal, the April 4, 2007, order of the circuit court affirming the order of the district court and imposing attorney fees for the defense of the circuit court appeal, as well as the district court's order itself, are VACATED.

Assuming, without deciding, that MCL 600.2591 even applies in the context of the prosecution of a municipal ordinance violation, that statute does not authorize the award of attorney fees in light of the district court's express finding that defendant's arguments were not frivolous. Attorney fees are authorized by MCL 600.8727, but only to a maximum of \$500. Therefore, this Court orders that the district court order is VACATED and instead, defendant is ordered to pay attorney fees in the amount of \$500. MCR 7.216(A)(1).

In light of the fact that the district court was without authority under any statute or court rule to impose \$3,060 in attorney fees, it cannot be said that defendant had no reasonable basis for believing that he had a meritorious issue in his circuit court appeal. MCR 7.101(P). Therefore, the circuit court's order awarding attorney fees for the defense of the circuit court appeal was in error and so, is VACATED.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

AUG - 2 2007

Date

Sandra Schultz Mengel
Chief Clerk